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Attorneys for The Links at Coyote Wash Utilities, LLC

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF THE LINKS AT COYOTE WASH
UTILITIES, LLC, FOR AN EXTENSION OF
ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR
WASTEWATER SERVICE IN YUMA
COUNTY, ARIZONA.

DOCKET NO. SW-04210A-06-0220

NOTICE OF COMPLIANCE WITH
DECISION NO. 69209

The Links at Coyote Wash Utilities, L.L.C. ("Company"), an Arizona public service corporation, hereby submits this Notice of Compliance pursuant to Decision No. 69209 (December 21, 2006) ("Order").

The Order requires the Company to annually file certification from the Arizona Department of Occupational Safety and Health ("ADOSH") that the Company has utilized ADOSH consultation services, and that the Company's operators, agents, and employees have taken appropriate training.

Through its Notice of Compliance filed on December 19, 2008, the Company informed Staff that the ADOSH on-site consultation was scheduled for January 9, 2009. Attached hereto is as Exhibit 1 is a confirmation letter from Babak Emami, CET Supervisor, and the Consultation Report. The Company has taken steps to correct the three hazards identified during the consultation (*see* Attachment B to the Consultation Report).

...

Arizona Corporation Commission
DOCKETED

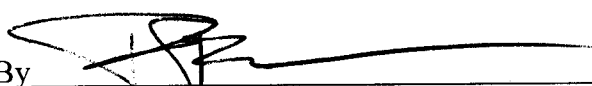
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DATED this 4th day of March, 2009.

FENNEMORE CRAIG, P.C.

By 
Jay L. Shapiro
Patrick J. Black
Attorneys for The Links at Coyote Wash
Utilities, LLC

ORIGINAL and 13 copies delivered this
4th day of March, 2009, to:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPY hand-delivered this 4th day of March, 2009:

Carmel Hood, Compliance
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

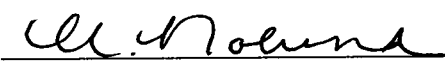
By: 
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EXHIBIT 1

THE INDUSTRIAL COMMISSION OF ARIZONA

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
P. O. BOX 19070
PHOENIX, AZ 85005-9070



BRIAN C. DELFS, CHAIRMAN
JOE GOSIGER, VICE CHAIRMAN
LOUIS W. LUJANO, SR., MEMBER
MARCIA WEEKS, MEMBER
JOHN A. MCCARTHY, JR., MEMBER

DARIN PERKINS, ADOSH DIRECTOR
(602) 542-5795
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LAURA MCGRORY, ICA DIRECTOR
TERESA HILTON, SECRETARY

January 26, 2009

Mr. Jason Williamson, President
Pivotal Utility Management, LLC
Links At Coyote Wash Utilities
6825 E. Tennessee Ave., Suite 547
Denver, CO 80224

Dear Mr. Williamson:

In response to your request, on 01/09/2009 Luis Lopez conducted a Full Service Health survey of the Links At Coyote Wash Utilities' waste water treatment plant, which provides sewer services to this subdivision in Wellton, AZ. The facility is located on CO 12th St, about 1/4 mi west of the CO 12th St/Ave 29E intersection. As agreed upon, those hazards that were identified and classified as serious show a projected schedule for correction. Included with this report is attachment B - Employer Report of Action Taken, a form to record the actions you are taking to correct those hazards identified. **This form must be returned to us on or before the scheduled correction date.**

The enclosed report presents recommendations for correcting identified hazards and for preventing their recurrence. These recommendations also include a discussion concerning management practices to ensure ongoing, systematic hazard prevention.

Accompanying this report is a list of hazards which includes a description of the serious hazard(s) and the date by which we mutually determined that the hazard(s) would be corrected. This List of Hazards must be posted, unedited, in a prominent location where it is readily observable by all employees for three working days or until the hazard(s) have been corrected, whichever is later. If we approve an extension to the correction due dates, a new List of Hazards will be sent to you showing the revised date(s).

During the time that you are working on correcting these hazard(s), ADOSH may not conduct a scheduled inspection at your work site, provided that: a) you are within the correction due dates, b) interim protection is in place and c) the List of Hazards is posted. Should these conditions not be met, an ADOSH compliance inspection may be conducted.

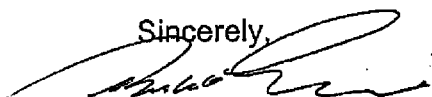
Also enclosed is a survey form. ADOSH is constantly striving to improve our consultation service and we would appreciate receiving feedback from you regarding the service you received. You may return the survey with the form indicating the corrective action taken.

We look forward to hearing from you concerning the steps you took in response to this report. This information will help us to assist you in providing a safe and healthful workplace for your employees. It can also provide us with information about the effectiveness of your program.

We encourage you to inform your employees of the action you take. This knowledge will help them to do their part in maintaining a safe and healthful workplace and it will let them know of your concern for their welfare.

Thank you for seeking our assistance. If you need additional information, we encourage you to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Babak Emami', written over a horizontal line.

Babak Emami
CET Supervisor
Phoenix ADOSH Office

CONSULTATION REPORT

for

**Links At Coyote Wash Utilities Waste Water Treatmt
6825 E Tennessee Ave, Ste 547
Denver, CO 80224**

Submitted By:

**Consultation, Education & Training, ADOSH
P. O. Box 19070
800 W. Washington Street, Room 207
Phoenix, AZ 85005-9070**

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Executive Summary

Introduction

This report provides the results of a full service health survey. When referring to this report, please reference the Visit Number 504965831.

Summary of the Visit

Mr. Jason Williamson, President of Pivotal Utility Management, LLC, requested a full service, safety and health survey of the Links At Coyote Wash Utilities' waste water treatment plant, which provides sewer services to this subdivision in Wellton, AZ. The facility is located on CO 12th St, about 1/4 mi west of the CO 12th St/Ave 29E intersection. This waste water treatment is owned by Pivotal Utility Management, LLC, and operated by Sunstate Environmental Services of Yuma, AZ. This report is addressed to Mr. Williamson, representing the plant's owner and Mr. Rick Miller, of Sunstate Environmental Services, who plant's operator.

On 01/09/2009, an opening conference was conducted by Luis Lopez, ADOSH Industrial Hygiene Consultant. During this opening, I met with Mr. Miller, who was in charge of the waste water treatment facility at the time of the survey. I discussed with Mr. Miller the purpose and scope of this survey. Also, we discussed the responsibility of the employer to correct any serious hazards if found.

After the opening conference, we walked around the plant, accompanied by Mr. Miller. This is a relatively new (about 5 y/o) waste water treatment facility providing sewer services to this subdivision (Links At Coyote Wash) in Wellton, AZ. Mr. Miller and another employee are the only Sunstate Environmental Services employees regularly exposed to the hazards of this facility.

OCCUPATIONAL HAZARDS

The occupational exposures of confined space entry has almost been eliminated at this facility by the fact that all the underground tanks are equipped with pumps capable of being pulled out of the tank to be serviced outside. However, the potential exposure still exists due to the fact that on rare occasion, Mr. Miller may have to enter the confined space. One such occasion occurred on 12/11/2007 when the pump got stuck on the railing and Mr. Miller enter the tank to release the pump and fix the rail. A permit was completed for that entry, and the proper procedures were followed, including (but not limited to) documentation of the air monitoring conducted prior to entry. The multi-gas tester was calibrated prior to its use. According to Mr. Miller, a retrieval system was in place during this confined space entry. The equipment used for non-entry rescue, in case it was needed, included a retrieval line, full-body harness, and a lifting device. Also, the rescue service designated to rescue employees from this permit space was the Town of Wellton's Fire Department. The employer's rescue arrangements with this local fire department have room for improvements, which are addressed in the recommendations section below.

Other than those associated with the entry to permit spaces, no respiratory hazards that would require the use of respirators was observed or reported during the survey. Emergency medical services are available locally by calling 911. Similarly, other than in association with permit space entry, no LO/TO is needed since all major equipment repair or maintenance is done by outside contractors.

During the review of OSHA-required programs and walk around the facility, the following hazards were found and discussed in detail:

MISSING BELT-PULLEY GUARD

The blower's pulley and belt drive system, located in the blower room, was lacking a complete guard to prevent employees from reaching into, and getting seriously injured by its moving parts. The installed guard did not completely enclose the belt to eliminate the hazards. Exposure time is limited to less than 10 minutes during the times when employees are working at this facility. Otherwise, the blower room is unoccupied.

ELECTRICAL PLUG GROUND PIN CONNECTOR

An extension cord, located in the blower room, was lacking a continuous and permanent path to ground (i.e, its plug was missing a ground pin). It was immediately taken out of service during this survey.

HAZARD COMMUNICATION

The most significant occupational health exposure for Sunstate Environmental Services employees in this facility are the chemicals being used for water treatment. Primarily, a sodium hypochlorite (12.5%) aqueous solution is used in the water treatment process. This chemical is stored in 55-gallons, plastic drums (limited to two), from where the chemical is fed (piped) automatically. Sunstate employees have very limited exposure to this chemical since the supplier replaces the dispensing plastic drums. Additional chemical exposure is limited to three 55-gal

drums containing methanol, which is similarly dispensed. No other chlorination system is used in this plant. Other incidental chemicals used include lubricant (grease), and a small amounts of chemical reagents used for testing the water pH level. The employer did not have a written hazard communication program on site. The only program parts implemented were availability of some of the required material safety data sheets (MSDSs) and container labeling. None of the employees had received training as required by the OSHA hazard communication standard. A sample hazard communication program was left with Mr. Miller for his review.

The above hazards are further identified and described in this report under Attachment A - Report of Hazards Found.

RECOMMENDATIONS

The following safety and health issues, for which no hazard details were necessary, were reviewed with the employer, and the corresponding recommendations made:

CONFINED SPACE RESCUE SERVICE

During this survey, a written confined space entry program was available for my review, and as described above, the permit system was implemented on the last permit entry. Although no one has entered any confined space since 12/11/07, there is a potential for entry any time in the future. Review of the existing policies and procedures indicate room for improvement in the rescue service arrangements currently in place. Prior to any future permit entry, Sunstate shall have updated their Permit-required Confined Space Entry's policy and procedures with the following OSHA requirements:

A. The designated safety and health (s&h) officer shall evaluate, based on their capabilities (available rescue equipment and properly trained personnel), to identify and select the most qualified rescue service prior to any employee entering a permit required confined space. Make sure the rescue service selected is capable of performing the required rescue.

1. The nearest qualifying rescue service (usually the local fire department) shall be contacted to notify them of their selection to provide off-site emergency response personnel to respond to any emergencies occurring in confined spaces at the Links At Coyote Wash's waste water treatment plant. The s&h officer shall ensure that fire department personnel are notified sufficiently in advance of any planned entry into permit-required confined spaces so that rescue personnel are present at their department station, or are at least available on-call.

2. If the selected local fire department personnel are not available, no entry shall be made, or other means of rescue, in addition to non-entry rescue, must be provided.

B. The s&h officer shall provide the selected rescue personnel, with sufficient information regarding Sunstate Environmental Services' permit confined space entry policy and procedures to allow them to respond appropriately to such emergencies. The information provided shall include as a minimum the potential hazards which may be encountered during entry or rescue from the Links At Coyote Wash's confined spaces.

C. The entry supervisor will ensure that entry attendants are provided with the proper means to immediately communicate to the rescue team (i.e. local fire department) when their emergency rescue services are needed.

EYE WASH TESTING

An eye wash/shower station provided for the employees' protection from accidental exposure to the sodium hypochlorite solution had not been tested per the ANSI standard specifications. The eye wash/shower station must be inspected and tested weekly to ensure its continued operating conditions. Also, a written record of this periodic testing needs to be maintained.

After the walk-around, I conducted a closing conference with Mr. Miller. We discussed the above findings, explaining to him which ones were serious, and how to abate them in detail. I further explained their responsibility to abate the hazards described in the Hazards Found form. I also expressed that they are more than welcome to contact me if they should have any questions regarding this survey.

Safety and Health Program Management

We encourage employers to create, implement and maintain a Safety and Health Program which provides policies, procedures and practices that provide employees with safe and sanitary working conditions. This Program must identify occupational hazards that employees might encounter in their work. This Program should contain five basic elements:

1. Management commitment, and leadership that in turn provides for employee input and involvement. Management commitment is essential as a first step in establishing employee safety. That commitment should follow through the entire operation every day. Employee involvement is equally essential to have a functioning safety program.
2. Every work site must be analyzed for hazard identification and hazard assessment. This is a management function that should not be delegated. Employee involvement is equally critical, and a commitment to avoid or protect against the hazards identified is paramount if injuries are to be avoided.
3. Identified hazards should be controlled, eliminated or protected against injury to employees. The controls can be in many forms, but must be active and enforced. Again a commitment from management and a strong commitment from employees are required to maintain a safe workplace.
4. Training is central to all safety programs. Management should commit assets as required to complete effective training, and employees should commit to learning from the training, and placing the concepts learned into operation in their work.
5. Finally, records should be kept, and used for trend analysis, cluster development of injuries, and should record reasons for all accidents and near misses. Having this information to analyze will supplement the above portions of the program, and allow management insight to the effectiveness of the program, and a means to determine where corrective action needs to be applied. In addition, records must be kept for all recordable injuries as per the OSHA 300 log requirements. The OSHA Log 300 information will be requested at every survey, or Compliance Inspection.

During this survey, we determined that the employer is pro-active in their approach to the safety and health of its employees. Once the violations addressed above are corrected and the recommendations made are implemented, this employer should be performing at a level that is required for compliance with the OSHA standards. Sunstate Environmental Services (contract-operator) provides the necessary written programs for compliance with the OSHA standards, but each facility has to customize the particular program to meet the facility's own needs. The program weaknesses identified above and OSHA violations found in this waste water treatment plant are a direct reflection on this facility's lack of implementation of existing Sunstate Environmental programs. They are also due in part to the contract-operator's corporate management's failure to periodically audit the Links At Coyote facility for compliance with the OSHA standards. Pivotal Utility Management, LLC (owner of the plant) contacted ADOSH consultation to ensure that the facility was in compliance with the OSHA standards.

Safety and Health Hazards Found

The hazards found during the survey of your workplace is attachment A - Report of Hazards Found. Each hazard is categorized and described and recommendations are given for its correction. Hazards are in order of item number, not necessarily in order of importance.

Hazards could be in any of the following categories:

IMMINENT DANGERS - are hazards that can reasonably be expected to cause death or serious physical harm immediately or before this written report is received. Any such hazards would have been corrected immediately, and no correction dates or space for correction method would appear in a Report of Hazards Found.

SERIOUS HAZARDS - can cause an accident or health hazard exposure resulting in death or serious physical harm. Each such hazard would be assigned a mutually agreed-upon date by which correction is to be completed.

NONSERIOUS HAZARDS - lack the potential for causing serious physical harm, but could have a direct impact on employee safety and health. We encourage you to correct these hazards and notify us of the action taken.

REGULATORY HAZARDS - reflect violations of the Arizona Division of Occupational Safety and Health (ADOSH) posting requirements, recordkeeping requirements, and reporting requirements as found in A.A.C. R20-5-609, 29 CFR 1903 and 29 CFR 1904. No correction dates have been set, but we request notification of their correction.

Under ADOSH regulations, each cited piece of equipment (machine or device) must be tagged at or near the controls or hazard with a warning tag, until the hazard is corrected or the item is permanently removed from service. This is in addition to rather than in place of the current requirement to post citations, and is meant to enhance employee knowledge, a prerequisite for employee involvement in the management of workplace safety and

health. The regulation also requires certification to ADOSH of correction, including a signature and signature date as well as the correction information requested in attachment B - Employer Report of Action Taken to this report. We recommend that you treat attachment A - Report of Hazards Found as a group of citations, tagging any piece of equipment on which a serious violation was found.

Notice of Obligation

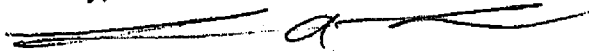
As you know, we are required to notify the ADOSH Compliance Section if serious hazards are not corrected within the agreed-upon time. Extensions may be granted if you encounter difficulties completing correction within these time frames, but we must receive your request for an extension in writing before the correction due date. Although we are not required to notify ADOSH if nonserious hazards are not corrected, these hazards could result in injury to your employees. Moreover, your company would be subject to citation for them in the event of an ADOSH compliance inspection. Please mail or FAX attachment B - Employer Report of Action Taken, completed to show correction methods, on or before **February 26, 2009**.

In the event of an ADOSH compliance inspection, it is important to remember that the Compliance Officer is not legally bound by the consultant's advice or by the consultant's failure to point out a specific hazard. You may, but are not required to, furnish a copy of this report to the Compliance Officer, who may use it to determine your good faith efforts toward safety and health and reduce any proposed penalties. You are, however, required to furnish any employee exposure data from this report as required by 29 CFR 1910.1020.

Notice of Safety and Health Achievement Recognition Program

Employers who commit to correcting all the hazards identified by consultants in the course of a full service safety and health survey and establishing an effective safety and health program, and who meet certain other requirements, can be recognized under ADOSH's Safety and Health Achievement Recognition Program (SHARP).

Sincerely,



Luis A. Lopez
State Industrial Hygiene Consultant
ADOSH-CET

Attachments

A - Report of Hazards Found

Item Number	0001	Instance	A	Correction Due Date	02/26/09
Hazards Type	Serious				

Standard: 1910.219(d)(1)

Condition:

A pulley with a part seven feet (2.13meters) or less from the floor or work platform was not guarded by a standard guard.

Potential Effect:

Without the guard in place, an employee's fingers, hair, and /or clothing could get caught in the rotating belt and pulley system, resulting in serious injuries.

Recommended Action:

A standard guard is made of expanded metal, perforated or solid sheet metal, wire mesh on a frame of angle iron, or iron pipe. It is free of burrs and sharp edges and, for a horizontal overhead belt, completely encloses the belt runs and pulley faces, and, where practical, either follows the line of the pulley to the ceiling or is carried to the nearest wall. The width of the guard should be at least one fourth wider than the width of the belt, except that clearance on either side need not be greater than six inches (152millimeters).

Description:

The blower's pulley and belt drive system, located in the blower room, was lacking a complete guard to prevent employees from reaching into, and getting seriously injured by its moving parts. The installed guard did not completely enclose the belt to eliminate the hazards. Exposure time is limited to less than 10 minutes during the times when employees are working at this facility. Otherwise, the blower room is unoccupied.

Item Number	0002	Instance	A	Correction Due Date	
Hazards Type	Other				

Standard: 1910.304(f)(4)

Condition:

The electrical path to ground from a circuit, piece of equipment or enclosure was not permanent and continuous.

Potential Effect:

electric shock, burns, and electrocution, from contact with live parts.

Recommended Action:

Check and repair the electrical system. In older systems, metal raceways are frequently used as an electrical path to ground. Look for corroded metal parts, loose couplings/connectors, or broken raceways that could be the cause. Other possible causes could be loose receptacle mounting or broken wires. Use only tested or labeled equipment.

Description:

An extension cord, located in the blower room, was lacking a continuous and permanent path to ground (i.e, its plug was missing a ground pin). It was immediately taken out of service during this survey.

Item Number	0003	Instance	A	Correction Due Date	
Hazards Type	Other				

Standard: 1910.1200(e)(1)

Condition:

A written hazard communication program was not developed or not implemented that met the minimum requirements.

Potential Effect:

Employees may be exposed unknowingly to a toxic material or may use a physically hazardous material in an unsafe manner due to lack of information about the chemical or its hazards. First aid in case of accidental exposure may be incorrect or delayed due to lack of information about first aid and emergency procedures.

Recommended Action:

Develop and implement a hazard communication program which includes:

- a. A written plan specific to your establishment for complying with the OSHA hazard communication standard. Such a plan supplied by an outside source (e.g., consultant, company headquarters, employer association, or insurance carrier) is acceptable if it meets all requirements of 29CFR 1910.1200(e).
- b. A list, or lists by working area, of all hazardous materials present in the establishment.
- c. A file containing a material safety data sheet (MSDS) for each material listed as hazardous.
- d. A labeling system to ensure that all containers of hazardous chemicals, except those used immediately by a single employee, are marked with the name of the chemical, a hazard warning, and the name and address of the manufacturer or other responsible party (e.g., importer or supplier).
- e. A training program for employees, presented at the time of initial assignment and updated whenever a new hazard is introduced to the work area, on the requirements of the standard, the hazards in the work area, the ways of detecting or monitoring those hazards, the ways of protecting themselves from those hazards, and the details of the hazard communication program, including where to view and how to obtain copies of the documentation.

Commonly overlooked items of the program include training employees on hazards of non-routine tasks and informing outside contractors of hazardous chemicals they are likely to encounter in the facility. Information on developing a hazard communication program for your facility was provided to you at the closing conference.

GENERAL NOTE: A sample program was left with you for your convenience. You may use this sample program by filling-in the blanks and customizing it to meet your own facility's (site-specific) needs. Remember that more important than having a written program is to implement its contents.

Description:

The most significant occupational health exposure for Sunstate Environmental Services employees in this facility are the chemicals being used for water treatment. Primarily, a sodium hypochlorite (12.5%) aqueous solution is used in the water treatment process. This chemical is stored in 55-gallons, plastic drums (limited to two), from where the chemical is fed (piped) automatically. Sunstate employees have very limited exposure to this chemical since the supplier replaces the dispensing plastic drums. Additional chemical exposure is limited to three 55-gal drums containing methanol, which is similarly dispensed. No

other chlorination system is used in this plant. Other incidental chemicals used include lubricant (grease), and a small amounts of chemical reagents used for testing the water pH level. The employer did not have a written hazard communication program on site. The only program parts implemented were availability of some of the required material safety data sheets (MSDSs) and container labeling. None of the employees had received training as required by the OSHA hazard communication standard. A sample hazard communication program was left with Mr. Miller for his review.

B - Employer Report of Action Taken

From: Links At Coyote Wash Utilities Waste Water Treatmt
CO 12th St, 1/4 mi west of Ave 29 E
Wellton, AZ

Visit Number: 504965831 Date of Survey: 01/09/09

Item Number	0001	Hazard Type	Serious	Standard	1910.0219(d)(01)
Instance	A	Correction Due Date	02/26/09	Date Corrected	2/24/09
Describe Corrective Action Taken					

Installed a pulley Guard on both blowers

Action Taken to Prevent Recurrence

Pulley guards will be required at all times

Item Number	0002	Hazard Type	Other	Standard	1910.0304(f)(04)
Instance	A	Correction Due Date		Date Corrected	1/9/09
Describe Corrective Action Taken					

Removed Cond from service

Action Taken to Prevent Recurrence

all extension cords must be grounded.

Item Number	0003	Hazard Type	Other	Standard	1910.1200(c)(01)
Instance	A	Correction Due Date		Date Corrected	2/25/09
Describe Corrective Action Taken					
a written hazard communication program being developed					
Action Taken to Prevent Recurrence					
written plan will henceforth be kept on file					